

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/008255	International filing date (day/month/year) 23.07.2004	Priority date (day/month/year) 21.08.2003
International Patent Classification (IPC) or national classification and IPC B01F13/10		
Applicant UNILEVER N.V et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 3 sheets, as follows:</p> <p><input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 18.02.2005	Date of completion of this report 08.08.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Real Cabrera, R Telephone No. +31 70 340-4256	



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/008255

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-20 as originally filed

Claims, Numbers

1-9 received on 16.02.2005 with letter of 16.02.2005

Drawings, Sheets

1/3-3/3 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/008255

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	2,4-8
	No: Claims	1,3,9
Inventive step (IS)	Yes: Claims	-
	No: Claims	1-9
Industrial applicability (IA)	Yes: Claims	1-9
	No: Claims	-

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following document:
D1: US-B-6 280 0751 (CADEO ANGELO) 28 August 2001 (2001-08-28)
- 2.1 Furthermore, the above-mentioned lack of clarity notwithstanding (cf. Item VIII), the subject-matter of **claim 1** is not new in the sense of Article 33(2) PCT, and therefore the criteria of Article 33(1) PCT are not met.

The document D1 discloses (cf. figure 1) *an apparatus comprising a frame comprising*

- *a source unit (1) comprising one or more component reservoirs;*
- *selection means for selecting the desired components and/or their ratio (implicit in the description);*
- *a source unit (3) comprising component reservoirs for post added ingredients wherein the post added ingredients are arranged in at least two families;*
- *selection means for selecting the desired post-added ingredients (implicit in the description);*
- *processing means (31) suitable for mixing the components from the component reservoirs and the post-added ingredients;*
- *a dispensing unit.*

- 2.2 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claims 5-8** does not involve an inventive step in the sense of Article 33(3) PCT.

The method **claims 5-8** appear to be obvious possibilities for the skilled person, when an apparatus as described in apparatus **claim 1** is to be used for the preparation of emulsion type food products (**claims 5-7**) or for the preparation of a dressing (**claim 8**).

- 2.3 Furthermore, the above-mentioned lack of clarity notwithstanding (cf. Item VIII), the subject-matter of **claim 9** is not new in the sense of Article 33(2) PCT, and therefore the criteria of Article 33(1) PCT are not met.

The document D1 discloses (cf. figure 1) *an apparatus comprising a frame comprising*

- *a source unit (1) comprising one or more component reservoirs;*
- *selection means for selecting the desired components and/or their ratio (implicit in the description);*
- *a source unit (3) for post added ingredients wherein the post added ingredients are arranged in at least two families;*
- *selection means for selecting the desired post-added ingredients (implicit in the description);*
- *processing means (31) comprising mixing means suitable for mixing the components from the component reservoirs and the post-added ingredients;*
- *a dispensing unit.*

3. Dependent **claims 2, 3 and 4** do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the EPC with respect to novelty and/or inventive step, the reasons being as follows:

3.1 The additional features of **claim 3** are already disclosed in document D1, cf. figure 1.

3.2 The additional features of **claims 2 and 4** appear to be obvious for the skilled person.

Re Item VIII

Certain observations on the international application

1. The distinguishing features in the apparatus **claim 1** relate to a method of using the apparatus rather than clearly defining the apparatus in terms of its technical features. The intended limitations are therefore not clear from this claim, contrary to the requirements of Article 6 PCT. Said functional features cannot be used when trying to distinguish over the prior art.
2. The distinguishing features in the apparatus **claim 9** relate to a method of using the apparatus rather than clearly defining the apparatus in terms of its technical features. The intended limitations are therefore not clear from this claim, contrary to the requirements of Article 6 PCT. Said functional features cannot be used when trying to distinguish over the prior art.

Claims

1. Apparatus for preparing and dispensing an oil and water containing emulsion comprising one or more post-added ingredients, the apparatus comprising a frame comprising
- a source unit (a) comprising one or more component reservoirs (1);
 - selection means for selecting the desired components and/or their ratio
 - a source unit (b) comprising component reservoirs for post added ingredients (b1) wherein the post added ingredients are arranged in at least two families;
 - selection means for selecting the desired post-added ingredients;
 - processing means (2) suitable for mixing the components from the component reservoirs and the post-added ingredients;
 - a dispensing unit (7) for dispensing the resulting oil and water emulsion,

wherein each family of post-added ingredients is composed such that each member thereof is highly similar in colour, taste and consistency such that any residue which may remain in the processing means will not have an adverse effect on the perception of the product by the end-user.

2. Apparatus according to claim 1 wherein the dispensing unit (7) is suitable for use in a batch process and dispensing only one product at a time.

3. Apparatus according to claim 1 or 2, wherein the processing means (2) comprises a pre-mixer unit (3) suitable

for creating an oil and water emulsion.

4. Apparatus according to any of claims 1-3, which comprises a dedicated mixer (6) for each family of post-added ingredients (b1).
5. Method for preparing an oil and water emulsion in a batch system wherein the apparatus according to any of claims 1-4 is used and wherein the source unit (a) comprises separate reservoirs (1) for a composition selected from the group comprising oil phase, an aqueous phase, emulsifier, tomato base, mustard, mayonnaise base, dressing base and sauce base.
6. Method for preparing an oil and water emulsion, wherein the apparatus comprises dedicated mixers (6) for each family of post-added ingredients and wherein the families of ingredients are selected from the group comprising flavouring agents, structuring agent, herbs and colourants.
7. Method for mixing components for the preparation of water and oil emulsion type food products, using an apparatus according to any of claims 1-4 wherein the components of an oil phase reservoir, aqueous phase reservoir and emulsifier reservoir are mixed in a pre-mixer (3) to obtain an emulsion, followed by addition of post-added ingredients (1b) via dedicated mixers (6) for each family of post-added ingredients.
8. Method for the preparation of a dressing using an apparatus according to any of claims 1-4 wherein the source unit (a) comprises separate reservoirs (1) that are provided with an

oil phase, an aqueous phase preferably below pH 3.8 and an emulsifier, said oil phase, aqueous phase and emulsifier are pumped to a pre-mixer creating an emulsion, followed by addition of post-added ingredients (b1) from the family of herbs, the family of colorants and the family of flavourings via dedicated post-mixers, and dispensing the dressing.

9. Apparatus for preparing and dispensing an oil and water containing emulsion comprising one or more post-added ingredients, the apparatus comprising a frame comprising

- a source unit (a) comprising one or more component reservoirs; (1);
- selection means for selecting the desired components and/or their ratio
- a source unit (b) for post-added ingredients (b1) wherein the post-added ingredients are arranged in at least two families;
- selection means for selecting the desired post-added ingredients;
- processing means (2) comprising mixing means suitable for mixing the components from the component reservoirs and the post-added ingredients;
- a dispensing unit (7) for dispensing the resulting oil and water emulsion,

wherein the ratio of the volume of the product that is dispensed to the volume of the mixing means is at least 5:1.